

AMENDED IN ASSEMBLY JUNE 13, 2016

SENATE BILL

No. 1106

Introduced by Senator Leyva

February 17, 2016

An act to ~~add Sections 18700.1, 18700.2, and 18700.3 to the Health and Safety Code, relating to mobilehome parks, and making an appropriation therefor; amend Section 60200 of, and to add Section 60227 to, the Education Code, relating to instructional materials.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1106, as amended, Leyva. ~~Mobilehome parks. Instructional materials: follow-up adoptions.~~

Existing law requires the State Board of Education to adopt instructional materials for kindergarten and grades 1 to 8, inclusive, and to adopt procedures for the submission of instructional materials, and provides that instructional materials may be submitted for adoption in specified subject areas every 8 years.

This bill would instead provide that instructional materials may be submitted for adoption at least once but no more than twice every 8 years. The bill would require the State Department of Education, before conducting a follow-up adoption, as defined, in a given subject area to post a notice on the department's Internet Web site and notify all publishers or manufacturers known to produce basic instructional materials in that subject area that each publisher and manufacturer choosing to participate in the follow-up adoption shall be assessed a fee, as specified.

~~Existing law, known as the Mobilehome Parks Act, generally regulates various classifications of mobilehome and related vehicle parks. The Special Occupancy Parks Act generally regulates special~~

occupancy parks. Both acts impose related duties on the Department of Housing and Community Development and local enforcement agencies. Existing law provides that any person who willfully violates the act, related building standards, or other related rules and regulations adopted by the department is guilty of a misdemeanor, subject to suspension or revocation of permits issued under the act, and liable for a civil penalty for each violation or for each day of a continuing violation. Existing law requires all fees or other moneys accruing to the department to be deposited into the Mobilehome-Manufactured Home Revolving Fund, which is continuously appropriated to the department for carrying out the provisions of the act.

This bill would authorize the Director of Housing and Community Development or a local enforcement agency that has assumed jurisdiction to issue citations that assess additional civil penalties to any owner or operator, or both, of a mobilehome park, special occupancy park, or registered owner of a manufactured home, mobilehome, or recreational vehicle, or other responsible party when he or she has permitted the continuation of a violation for at least 30 days after the expiration of a notice to correct the violation or violations from the enforcement agency. The bill would prescribe the amounts of those penalties and provide for a hearing on the citations. By increasing revenues deposited into a continuously appropriated fund, this bill would make an appropriation.

The bill would prescribe procedures for petitioning the department to review and investigate the enforcement activities of the local enforcement agency regarding the citation. Any hearing held pursuant to these procedures would not be subject to the Administrative Procedure Act.

Vote: $\frac{2}{3}$ -majority. Appropriation: yes-no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 60200 of the Education Code is amended
- 2 to read:
- 3 60200. The state board shall adopt basic instructional materials
- 4 for use in kindergarten and grades 1 to 8, inclusive, for governing
- 5 boards, subject to the following provisions:

1 (a) The state board shall adopt at least five basic instructional
2 materials for all applicable grade levels in each of the following
3 subject areas:

4 (1) Language arts, including, but not limited to, spelling, reading,
5 and English language development. The state board may not adopt
6 basic instructional materials in this subject area or the subject area
7 specified by paragraph (2) in the year succeeding the year in which
8 the state board adopts basic instructional materials in this subject
9 area for the same grade level.

10 (2) Mathematics. The state board may not adopt basic
11 instructional materials in this subject area or the subject area
12 specified by paragraph (1) in the year succeeding the year in which
13 the state board adopts basic instructional materials in this subject
14 area for the same grade level.

15 (3) Science.

16 (4) Social science.

17 (5) Bilingual or bicultural subjects.

18 (6) Any other subject, discipline, or interdisciplinary areas for
19 which the state board determines the adoption of instructional
20 materials to be necessary or desirable.

21 (b) The state board shall adopt procedures for the submission
22 of basic instructional materials in order to comply with each of
23 the following:

24 (1) Instructional materials may be submitted for adoption in any
25 of the subject areas pursuant to paragraphs (1) to (6), inclusive, of
26 subdivision (a) *at least once but not more than twice* every eight
27 years. The state board shall ensure that curriculum frameworks
28 are reviewed and adopted in each subject area and that the criteria
29 for evaluating instructional materials developed pursuant to
30 subdivision (b) of Section 60204 are consistent with subdivision
31 (c). The state board may prescribe reasonable conditions to restrict
32 the resubmission of materials that have been previously rejected
33 if those resubmitted materials have no substantive changes.

34 (2) If a publisher or manufacturer submits revisions to currently
35 adopted instructional material for review after the timeframe
36 specified by the state board, the department shall assess a fee on
37 the submitting publisher or manufacturer in an amount that shall
38 not exceed the reasonable costs to the department to conduct a
39 review of the instructional material pursuant to this section.

(3) Submitted instructional materials shall be adopted or rejected within six months of the submission date of the materials pursuant to paragraph (1) unless the state board determines that a longer period of time, not to exceed an additional three months, is necessary due to the estimated volume or complexity of the materials for that subject in that year, or due to other circumstances beyond the reasonable control of the state board.

(4) The process for review of instructional materials shall involve review committees, which shall include, but not be limited to, volunteer content experts and instructional material reviewers, and shall be composed of a majority of classroom teachers from a wide variety of affected grade levels and subject areas.

(5) The rules and procedures for adoption of instructional materials shall be transparent and consistently applicable regardless of the format of the instructional materials, which may include, but not be limited to, print, digital, and open-source instructional materials.

(c) In reviewing and adopting or recommending for adoption submitted basic instructional materials, the state board shall use the following criteria, and ensure that, in its judgment, the submitted basic instructional materials meet all of the following criteria:

(1) Are consistent with the criteria and the standards of quality prescribed in the state board's adopted curriculum framework. In making this determination, the state board shall consider both the framework and the submitted instructional materials as a whole.

(2) Comply with the requirements of Sections 60040, 60041, 60042, 60043, 60044, 60048, 60200.5, and 60200.6, and the state board's guidelines for social content.

(3) Are factually accurate and incorporate principles of instruction reflective of current and confirmed research.

(4) Are aligned to the content standards adopted by the state board in the subject area and the grade level or levels for which they are submitted.

(5) Do not contain materials, including illustrations, that provide unnecessary exposure to a commercial brand name, product, or corporate or company logo. Materials, including illustrations, that contain a commercial brand name, product, or corporate or company logo may not be used unless the state board determines that the use of the commercial brand name, product, or corporate

1 or company logo is appropriate based on one of the following
2 specific findings:

3 (A) If text, the use of the commercial brand name, product, or
4 corporate or company logo in the instructional materials is
5 necessary for an educational purpose, as defined in the guidelines
6 or frameworks adopted by the state board.

7 (B) If an illustration, the appearance of a commercial brand
8 name, product, or corporate or company logo in an illustration in
9 instructional materials is incidental to the general nature of the
10 illustration.

11 (6) Meet other criteria as are established by the state board as
12 being necessary to accomplish the intent of Section 7.5 of Article
13 IX of the California Constitution and of Section 1 of Chapter 1181
14 of the Statutes of 1989, provided that the criteria are approved by
15 resolution at the time the resolution adopting the framework for
16 the current adoption is approved, or at least 12 months before the
17 date that the materials are to be approved for adoption.

18 (d) If basic instructional materials are rejected, the state board
19 shall provide a specific, written explanation of the reasons why
20 the submitted materials were not adopted, based on one or more
21 of the criteria established under subdivision (c). In providing this
22 explanation, the state board may use, in whole or in part, materials
23 written by the Superintendent or any other advisers to the state
24 board.

25 (e) The state board may adopt fewer than five basic instructional
26 materials in each subject area for each grade level if either of the
27 following occurs:

28 (1) Fewer than five basic instructional materials are submitted.

29 (2) The state board specifically finds that fewer than five basic
30 instructional materials meet the criteria prescribed by paragraphs
31 (1) to (5), inclusive, of subdivision (c), or the materials fail to meet
32 the state board's adopted curriculum framework. If the state board
33 adopts fewer than five basic instructional materials in any subject
34 for any grade level, the state board shall conduct a review of the
35 degree to which the criteria and procedures used to evaluate the
36 submitted materials for that adoption were consistent with the state
37 board's adopted curriculum framework.

38 (f) This section does not limit the authority of the state board
39 to adopt materials that are not basic instructional materials.

(g) Consistent with the quality criteria for the state board's adopted curriculum framework, the state board shall prescribe procedures to provide the most open and flexible materials submission system and ensure that the adopted materials in each subject, taken as a whole, provide for the educational needs of the diverse pupil populations in the public schools, provide collections of instructional materials that illustrate diverse points of view, represent cultural pluralism, and provide a broad spectrum of knowledge, information, and technology-based materials to meet the goals of the program and the needs of pupils.

(h) Upon making an adoption, the state board shall make available to listed publishers and manufacturers and all school interests a listing of instructional materials, including the most current unit cost of those materials as computed pursuant to existing law. Items placed upon lists shall remain thereon, and be available for procurement through the state's systems of financing, from the date of the adoption of the item and until a date established by the state board. The date established by the state board for continuing items on that list shall be the date on which the state board adopts instructional materials based on a new or revised curriculum framework. Lists of adopted instructional materials shall be made available by subject and grade level to school districts and posted on the department's Internet Web site, and shall include information from the reports of findings from the review committees pursuant to paragraph (4) of subdivision (b). The lists shall terminate and shall no longer be effective on the date prescribed by the state board pursuant to this subdivision.

(i) The state board may approve multiple lists of instructional materials, without designating a grade or subject, and the state board may designate more than one grade or subject whenever it determines that a single subject designation or a single grade designation would not promote the maximum efficiency of pupil learning. Any materials so designated may be placed on single grade or single subject lists, or multigrade or interdisciplinary lists, or may be placed on separate lists including other materials with similar grade or subject designations.

(j) A composite listing in the format of an order form may be used to meet the requirements of this section.

(k) The lists maintained pursuant to this section shall not be deemed to control the use period by any school district.

1 (l) The state board shall give publishers the opportunity to
2 modify instructional materials, in a manner provided for in
3 regulations adopted by the state board, if the state board finds that
4 the instructional materials do not comply with paragraph (5) of
5 subdivision (c).

6 (m) This section does not prohibit the publisher of instructional
7 materials from including whatever corporate name or logo on the
8 instructional materials that is necessary to provide basic
9 information about the publisher, to protect its copyright, or to
10 identify third-party sources of content.

11 (n) The state board may adopt regulations that provide for other
12 exceptions to this section, as determined by the state board.

13 (o) The Superintendent shall develop, and the state board shall
14 adopt, guidelines to implement this section.

15 *SEC. 2. Section 60227 is added to the Education Code, to read:*

16 *60227. (a) For purposes of this section, a follow-up adoption*
17 *is any adoption other than the primary adoption that occurs within*
18 *the eight-year cycle established pursuant to subdivision (b) of*
19 *Section 60200.*

20 *(b) Before conducting a follow-up adoption in a given subject*
21 *area, the department shall post an appropriate notice on the*
22 *department's Internet Web site pursuant to subdivision (c) and*
23 *notify all publishers or manufacturers known to produce basic*
24 *instructional materials in that subject area.*

25 *(c) The notice shall specify that each publisher or manufacturer*
26 *choosing to participate in the follow-up adoption shall be assessed*
27 *a fee based on the number of programs the publisher or*
28 *manufacturer indicates will be submitted for review and the number*
29 *of grade levels proposed to be covered by each program.*

30 *(d) The fee shall offset the cost of conducting the follow-up*
31 *adoption process and shall reflect the department's best estimate*
32 *of the cost. The department shall take reasonable steps to limit*
33 *costs of the follow-up adoption and to keep the fee modest,*
34 *recognizing that some of the work necessary for the primary*
35 *adoption need not be duplicated.*

36 *(e) The department, before incurring substantial costs for the*
37 *follow-up adoption, shall require that a publisher or manufacturer*
38 *who wishes to participate in the follow-up adoption first declare*
39 *the intent to submit one or more specific programs for the follow-up*
40 *adoption and specify the specific grade levels to be covered by*

1 each program. After a publisher or manufacturer has declared the
2 intent to submit one or more programs and the grade levels to be
3 covered by each program, the department shall assess a fee. The
4 fee shall be payable by the publisher or manufacturer even if the
5 publisher or manufacturer subsequently chooses to withdraw a
6 program or reduce the number of grade levels covered. A
7 submission by a publisher or manufacturer shall not be reviewed
8 for purposes of adoption, either in a follow-up adoption or in any
9 other primary or follow-up adoption conducted thereafter, until
10 the fee assessed has been paid in full.

11 (f) (1) It is the intent of the Legislature that the fee not be so
12 substantial that it prevents small publishers or manufacturers from
13 participating in a follow-up adoption.

14 (2) Upon the request of a small publisher or manufacturer, the
15 state board may reduce the fee for participation in the follow-up
16 adoption.

17 (3) For purposes of this section, “small publisher” and “small
18 manufacturer” mean an independently owned or operated
19 publisher or manufacturer who is not dominant in its field of
20 operation, and who, together with its affiliates, has 100 or fewer
21 employees, and has average annual gross receipts of ten million
22 dollars (\$10,000,000) or less over the previous three years.

23 (g) Revenue derived from fees charged pursuant to subdivision
24 (e) shall be budgeted as reimbursements and subject to review
25 through the annual budget process and may be used to pay costs
26 associated with any adoption and any costs associated with the
27 review of instructional materials.

28 SECTION 1. Section 18700.1 is added to the Health and Safety
29 Code, to read:

30 18700.1. ~~(a) In addition to other remedies provided in this~~
31 ~~part, the Director of Housing and Community Development or his~~
32 ~~or her designee, or an employee authorized by a local enforcement~~
33 ~~agency that has assumed jurisdiction pursuant to Section 18300,~~
34 ~~may issue a citation that assesses a civil penalty to any owner or~~
35 ~~operator, or both, of a mobilehome park or registered owner of a~~
36 ~~manufactured home, mobilehome, or recreational vehicle, or other~~
37 ~~responsible party who violates this part or regulations adopted~~
38 ~~pursuant to this part, if the owner or operator, or both, or registered~~
39 ~~owner of a manufactured home, mobilehome, or recreational~~
40 ~~vehicle, or other responsible party has permitted the continuation~~

1 of a violation for at least 30 days after the expiration of a notice
2 to correct the violation or violations from the enforcement agency.
3 Each citation and related civil penalty assessment shall be issued
4 no later than seven months after issuance of the notice to correct
5 that is the basis of the citation. The penalties provided for in this
6 section are in addition to the penalties specified in Section 18700.

7 (b) (1) The amount of a civil penalty assessed pursuant to
8 subdivision (a) shall be one hundred dollars (\$100) for each
9 violation that the enforcement agency determines is a hazard
10 constituting an unreasonable risk to life, health, or safety, but shall
11 be increased to two hundred fifty dollars (\$250) for each
12 subsequent violation of the same prohibition for which a citation
13 for the subsequent violation is issued within one year of the citation
14 for the previous violation.

15 (2) The amount of a civil penalty assessed pursuant to
16 subdivision (a) shall be two hundred dollars (\$200) for each
17 violation that the enforcement agency determines is an imminent
18 hazard representing an immediate risk to life, health, and safety
19 and requiring immediate correction, but shall be increased to five
20 hundred dollars (\$500) for each subsequent violation of the same
21 prohibition for which a citation for the subsequent violation is
22 issued within one year of the citation for the previous violation.

23 (3) The civil penalties assessed pursuant to this section shall be
24 payable to the enforcement agency, notwithstanding any other
25 provision of law. Whether or not the violation or violations, if
26 applicable, giving cause for the citation are corrected, payment of
27 the civil penalty shall be remitted to the enforcement agency within
28 45 days of the issuance of the citation.

29 (c) Any person or entity served a citation pursuant to this section
30 may petition the director or his or her designee or the authorized
31 representative of the local enforcement agency, where applicable,
32 to dismiss or modify the citation. The petition shall be a written
33 request briefly stating the grounds for the request. Any petition to
34 be considered shall be received by the department or the local
35 enforcement agency within 30 days of the date of issuance of the
36 citation.

37 (d) (1) Upon receipt of a timely and complying petition, the
38 enforcement agency shall suspend enforcement of the citation and
39 set a time and place for an informal hearing and shall give the
40 recipient of the citation written notice thereof.

~~(2) The hearing shall commence no later than 30 days following receipt of the petition or at another time scheduled by the enforcement agency pursuant to a request by the petitioner or the enforcement agency, if the enforcement agency determines that good and sufficient cause exists.~~

~~(3) If the petitioner fails to appear at the time and place scheduled for the hearing, the enforcement agency may notify the petitioner in writing that the petition is dismissed and that compliance with the terms of the citation is required within 10 days after receipt of the notification.~~

~~(e) The enforcement agency shall notify the petitioner in writing of its decision and the reasons therefor within 30 days following conclusion of the informal hearing held pursuant to this section. If the enforcement agency upholds the citation, in whole or in part, the petitioner shall comply with the citation in accordance with the decision within 30 days after the decision is mailed by the enforcement agency.~~

~~SEC. 2. Section 18700.2 is added to the Health and Safety Code, to read:~~

~~18700.2. (a) A mobilehome park owner or operator, or the registered owner of a manufactured home, mobilehome, recreational vehicle, or other responsible party, who (1) has received a citation with civil penalties issued pursuant to Section 18700.1 by an enforcement agency other than the department, and (2) has received a final, formal order from the enforcement agency following an informal hearing on a submitted petition, shall be entitled to petition the department to review and investigate, as necessary, the enforcement activities of the local enforcement agency.~~

~~(b) The petition shall be in writing and shall include the following:~~

~~(1) A copy of the original notice of violation, and citation.~~

~~(2) A copy of the enforcement agency's written determination, if an informal hearing was held.~~

~~(3) A copy of the enforcement agency's final formal order.~~

~~(4) A clear and concise explanation of the issues that the petitioner continues to dispute.~~

~~(c) The department shall consider the petition in conjunction with the department's responsibility to monitor local enforcement activity pursuant to Section 18306.~~

1 ~~(1) Within 60 working days of the receipt of the petition, the~~
2 ~~department shall review the petition and provide the petitioner~~
3 ~~with written notice of whether the activities of the local agency~~
4 ~~require investigation by the department.~~

5 ~~(2) If the department has determined that the activities of the~~
6 ~~local agency require investigation by the department, the written~~
7 ~~notice to the petitioner shall provide a timeframe for the~~
8 ~~investigation.~~

9 ~~(3) If the department investigates the enforcement activities of~~
10 ~~a local agency in response to one or more petitions provided~~
11 ~~pursuant to subdivision (a), the department shall notify each~~
12 ~~petitioner within 60 days of the results of the department's~~
13 ~~investigation.~~

14 ~~(d) If the department finds that the notice of violation, citation,~~
15 ~~written determination, or final, formal order issued by the local~~
16 ~~enforcement agency reflects nonenforcement of the law, the~~
17 ~~department shall initiate corrective action pursuant to subdivision~~
18 ~~(d) of Section 18300. This corrective action shall include, but not~~
19 ~~be limited to, cancellation of the civil citation.~~

20 ~~SEC. 3. Section 18700.3 is added to the Health and Safety~~
21 ~~Code, to read:~~

22 ~~18700.3. Notwithstanding any other provision of law, any~~
23 ~~hearing held pursuant to Section 18700.1 or 18700.2 shall not be~~
24 ~~subject to Chapter 4.5 (commencing with Section 11400) of Part~~
25 ~~1 of Division 3 of Title 2 of the Government Code.~~